THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 18904 of 1999

DATED:03-08-2005

Between:

B.S.Narayana, S/o. Balaiah,

R/o. Bandar Nagar, Wanaparthy,
Mahaboobnagar District.

..... PETITIONER

AND

1 The Labour Court-3,
Hyderabad.
2 The Regional Manager, A.P.S.R.T.C..,
Golconda Region,
Secunderabad.
3 The Divisional Manager, APS.,Road Transport Corp.,
Mahaboobnagar Division, Mahaboobnagar District.
4 The Depot Manager, APS.,Road Transport Corporation, Wanaprthy Bus Depot.,
Wanaparthy, Mahaboobnagar District.

.....RESPONDENTS

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.NO.18904 OF 1999

ORDER:

This writ petition is filed being aggrieved by the Award passed by the Labour Court-III, Hyderabad in I.D.No.781 of 1993 dated 22-4-1997 in so far as not granting relief of continuity of service and back wages etc. while granting the relief of reinstatement .

It is the case of the petitioner that he was appointed as Conductor in APSRTC in the year 1977 and he has been discharging his duties to the satisfaction of his superiors till he was removed illegally from service on 8-5-1992. According to

him when he was working at Vanaparthy Depot, APSRTC, he was issued with a charge sheet framing as many as 35 charges for the misconduct purported to have been committed by the petitioner. The nature of the charges are not as to any irregularities committed while performing the duties- but on verification of the S.Rs for the service conducted by the petitioner earlier.All the charges are almost similar in nature i.e. as to altering o f S.R., reissuing of tickets. Farce of an enquiry was conducted, thereafter he was removed from the service on 8-5-1992. Aggrieved by the same, he had filed appeal before the competent authority and the same was dismissed. Hence, having no other option, the petitioner filed a petition under Section 2 A (2) of the Industrial Disputes Act before the Labour Court-III, Hyderabad, which was taken on file as I.D.No.781 of 1993. The labour court after appreciation of the evidence, came to the conclusion that the punishment of the removal from service is disproportionate and therefore, in the circumstances of the case, directed the respondents-management to reinstate the petitioner afresh. Hence, this writ petition.

Though no counter is filed, Ms.Rajani Reddy, learned counsel for the respondent strenuously contended that the labour court itself has taken a lenient view of the matter and granted the relief of fresh appointment. In fact, there are no grounds made out by the petitioner to grant further relief by this court by examining the case under Article 226 of the Constitution of India. Therefore, the writ petition is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award passed by the labour court and also the other material made available on record.

At the out set, I am of the opinion that the labour court has not committed any error in coming to the conclusion that the charges framed against the petitioner are proved in full. Further the labour court also has not committed any error, in the given circumstances of the case directing the respondents-management to reinstate the petitioner afresh. The nature of the charges as noted above is not the outcome of any check exercised while conducting the bus. The nature of the charges is that the respondents-management has verified S.Rs of the petitioner submitted earlier and found certain corrections here and there and on the basis of these corrections it was assumed by the management that the petitioner made lot of alterations in as many

as 35 cases and that tantamounts to reissue of tickets. Though 35 charges were framed against charge No.3,6,9,10,25,33, the enquiry officer himself held that they are not proved. However, the other charges which are similar in nature were held to be proved.

The charge framed against the petitioner is based on record and in fact, the petitioner himself has accepted that he has committed certain mistakes here and there in altering the entries in the S.R. and he submitted that may give some impression as if the petitioner committed some misconduct but in fact, not so.

The learned counsel for the petitioner also drawn attention of the court to the statement made by the STI, Vanaparthy Depot, which reads as under:

" On 1st and 2nd of the April he performed 15.00 hours Kurnool Express duty with S.R.No.2396536 and 2396827. In those S.R.' s he altered Rs.2.00 denomination ticket No.732 to 730 at stage No.17 to 15 and carried up to stage No.9 as 730. (2) he altered Rs.5.00 denomination at stage No.5 from 665 to 663 and carried up to stage No.1 (3) at stage No.1 he altered 663 as 658 of the same denomination and carried up to stage No.9, by mistake I have mentioned stage No.1 as stage No.17. That may be read as stage No.1. (4) further he altered the same denomination at stage No.9 as 668 from 670 and carried up to stage No.11. By mistake I have mentioned the stage No. as 1 instead of 9. That may be read as stage No.9."

and submitted that even as per the above statement of STI, who verified the S.Rs pertaining to the petitioner, there is no allegation that the petitioner has committed any misconduct as to reissue of the tickets by altering the S.Rs. Of course, the alteration of S.Rs is a matter of record but there was no specific evidence to show that he had reissued those tickets. On the basis of the record, the management has presumed that the petitioner had reissued those tickets and pocked certain amounts. However, the petitioner has deposited all those amounts which were found to be in short as per the verification report. In view of the same, the labour court has rightly come to the conclusion that the petitioner is entitled for some relief. However, while granting the relief,the labour court adopted conservative approach by directing the management to appoint the petitioner afresh which means that the petitioner was denied the service rendered by him between 1977 and 1991 and from 1991 till the date of his reinstatement. Now the petitioner is aged about 50 years, if the entire

service is taken away, it will certainly will have adverse effect on his retiral benefits. Under these circumstances, I am of the view that the labour court has not exercised the powers vested in under Section 11 A of the Industrial Disputes Act in not granting any further relief as to continuity of service. In the overall circumstances of the case, I am of the opinion that the petitioner- workman is entitled for reinstatement with continuity of service from the date of his appointment till the date of removal i.e. 8-5-1992. However, he is not entitled for reckoning the service rendered between 9-5-1992 and l 5-2-1998 for any purpose including seniority and retiral benefits.

In the result, the writ petition is allowed directing the respondents to reinstate the petitioner with continuity of service from the date of his appointment till the date of his removal 8-5-1992 . However, the petitioner is not entitled for reckoning the service rendered between 9-5-1992 and 5-2-1998 for any purpose including seniority and retiral benefits.

The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V.RAMULU,J

03-08-2005

Stp